

**MINUTES
STATE PRESERVES ADVISORY BOARD
JULY 8, 2005**

BOARD MEMBERS PRESENT

Neil Bernstein, Chair
Robin Fortney
Cindy Peterson
Liz Christiansen
Scott Moats
Armando Rosales
Laura Jackson

STAFF PRESENT

John Pearson
Daryl Howell

ADVISORS PRESENT

Bob McKay

CALL TO ORDER

Chairperson Neil Bernstein called the meeting to order at 8:30 AM on July 8, 2005 at the Lime Creek Nature Center in Mason City, Iowa.

Neil Bernstein welcomed new board member Armando Rosales.

APPROVAL OF AGENDA

Postpone Items 11 – Eureka Woods and 12 – Rock Island Preserve
Addition until after 10:30 a.m.

Add: 13a – Seed Harvest Request from Bill Johnson

 13b – Request for plant and fungi studies from Mary Damm

 13c – Preserve visits

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| <p><i>Motion was made by Robin Fortney to approve the agenda as amended. Seconded by Liz Christiansen. Motion carried unanimously.</i></p> |
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NOMINATION FOR CHAIR

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| <p><i>Motion was made by Laura Jackson to nominate Neil Bernstein as chair for the preserves board. Seconded by Liz Christiansen. Motion carried unanimously.</i></p> |
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Neil Bernstein accepted the nomination as Chair.

APPROVAL OF MINUTES

Laura Jackson asked for clarification of Bruce Banister's comment regarding the number of years they have been trying to get the land into the preserve system. This is located on page 5 of the April 2005 minutes.

Motion was made by Robin Fortney to approve the April 1, 2005 minutes as presented. Seconded by Laura Jackson. Motion carried unanimously.

GARRISON ROCK

The Wapello County Conservation Board has expressed interest in dedicating all or part of Garrison Rock Natural Resource Area as a possible state preserve. Located on bluffs flanking Des Moines River east of Ottumwa, this 300-acre area was recently acquired as a woodland mitigation site by the Iowa Department of Transportation and subsequently conveyed to the County Conservation Board. It contains extensive oak forest, a small hill prairie, and a deep sandstone ravine.

John Pearson said that he did visit the site. There are archeological features and a historic cemetery. A tour should be scheduled for the Board to visit this property, it is worthy of consideration.

Neil Bernstein suggested that John Pearson send out an e-mail asking board members when they are available for a field trip of this site.

Informational Only

STEELE PRAIRIE STATE PRESERVE

NRCS soil scientist Mark Minger completed a study of sedimentation in drainageways of this prairie preserve, finding up to 2 feet of post-settlement alluvium. This points out the need for soil conservation measures on farmland upstream of the preserve. The report identifies soil conservation programs that may help resolve this problem. Bob McKay has also been exploring options.

John Pearson said that Kathy Koskovich, private lands biologist with the DNR would work with the Soil and Water Conservation District.

Neil Bernstein said the report by Mark Minger on Steele Prairie contains a lot of good insight and details.

Scott Moats said that it could be beneficial to conduct studies and research on reed canary grass at various preserves.

MARIETTA SAND PRAIRIE SEED HARVEST

The Marshall County Conservation Board requests permission to hand-harvest seed from the preserve for three years. The seed will be used on 212-acre property adjacent to the preserve that has sand prairie remnants and a fen. The County Conservation Board and the Iowa Natural Heritage Foundation are in the process of fund-raising and applying for grants to purchase this property.

Daryl Howell said that if the project is not completed within the 3 year time frame as requested today, they will come back to the board for approval.

Motion was made by Scott Moats to approve the Marietta Sand Prairie Seed harvest as presented. Seconded by Liz Christiansen. Motion carried unanimously.

SCENIC PRESERVE STUDY

The Board is asked to officially adopt the final report recommendations with incorporated revisions that have been requested at previous Board meetings.

Laura Jackson mentioned that she had visited with the Garst family and they would be interested in designating about 8,500 wooded acres as a scenic preserve. This would be a great opportunity for the Garst's and the preserve system.

Laura Jackson believes that the language on page 9 of the study should be clarified as to what agriculture development is considered as scenic and non scenic. She suggested that we postpone approval of the study until the next meeting.

Robin Fortney said that tabling may not be the best option but that we look at the proposed piece of ground and determine if the intent is being met. She would not recommend changing the language. The language as is gives us some wiggle room.

Motion was made by Scott Moats to approve the final study on scenic preserves as presented. Seconded by Robin Fortney. Motion carried unanimously.

John Pearson said that he does not see the current language as a conflict. Our focus would be that there needs to be a core area of natural land and complimentary agricultural land is okay.

Laura Jackson said that on page 9 of the study, number 4, the criteria for scenic preserve status reads as: "The area proposed is in an undeveloped state (reasonably natural) with minimal human intrusions (visual, auditory or olfactory) (Agriculture is considered development)." That seems restrictive.

The board members discussed why and why not the language should remain as is.

Motion was made by Neil Bernstein to insert the word "core" on page 9, under number 4 to read as: The core area proposed is in an undeveloped state (reasonably natural) with minimal human intrusions (visual, auditory or olfactory) (Agriculture is considered development). Seconded by Laura Jackson. Motion carried unanimously.

RICHARD M. POHL MEMORIAL PRESERVE AT AMES HIGH PRAIRIE

John Pearson said that recent entries onto this preserve have occurred by construction vehicles working at the school and by vehicles performing an emergency repair to a school sewer line. A DNR conservation officer looked at the site and he determined that the damage was minimal enough that it didn't warrant a citation violation.

Laura Jackson suggested that volunteers and Friends groups could be assigned to write Christmas cards or notes to the adjacent land owners to the preserves. This would let people know that the preserves board is here and that we care about what happens to the preserve.

Robin Fortney said that contacting adjacent land owners of preserves could be a connection made by the Friends group on behalf of the board.

John Pearson said that he would mention this idea to Merry Rankin, DNR volunteer coordinator.

Daryl Howell said that Mr. Stevan Wilson a senior at Iowa State University was given permission to live-trap small mammals on the preserve. Dr. Sue Fairbanks will advise on the project and Dr. Erv Klaas will act as a liaison between Mr. Wilson and The Nature Conservancy.

PALISADES-DOWS PRESERVE

Daryl Howell said that Dr. John Doershuk with the Office of the State Archeologist was given permission to conduct an archeological field school for

Cornell College in Palisade-Dows Preserve. This is a continuation of work that Dr. Doershuk initiated with a field school for Cornell College in 2002. The field school was completed in May and a final report will be submitted detailing the results of the work in 2002 and 2005.

CONTINUING PROJECTS

Fossil Prairie Park

John Pearson said that the board approved of the dedication of the 300 acre Fossil Prairie Park. The County Conservation Board discovered that 50 acres of the preserve is not currently owned by them but by the Department of Transportation to develop a wetland mitigation site for a highway project. The DOT intends to turn the land over to the County Conservation Board. The understanding by the County Conservation Board was that the land would be back in their possession at the time of dedication but that has not yet happened. Once the land has been transferred from the DOT and the paperwork has been completed, then we will revise and dedicate those 50 acres into the preserve system.

Glenwood Hosptial Site

John Pearson gave an update on the Glenwood site. Kathy Gourley, a previous board member had offered to develop a management plan but due to new job duties she has been unable to find the time to write the management plan. An alternative approach is needed.

Neil Bernstein suggested that we set aside some money for the request for proposal. There are numerous significant historical and archeological sites at this location.

Iowa Conservationist articles

Neil Bernstein encouraged the board members to choose a preserve, snap some photographs and write an article for the Conservationist. Those can be submitted to Julie Sparks. Neil agreed to send out the format for the articles.

Seed Harvest Policy Revision

John Pearson said that we will present the suggested changes to the Seed Harvest Policy at the October meeting.

Preserve Manager Workshop

John Pearson said that he has started to compile a list of contact information for all managers at each preserve.

Laura Jackson said that she prepared a talk on the state preserves system and presented it to Iowa Prairie network. She can forward the PowerPoint presentation if anyone is interested.

Robin Fortney said that people will more likely connect with an article that included other people (volunteers) at preserve.

Liz Christiansen said that she would ask Julie Sparks about writing an article for the Conservationist.

OPEN DISCUSSION

Seed Harvest Request from Bill Johnson

Neil Bernstien said that Bill Johnson would like to continue to hand harvest the state preserves and to combine harvest at Cayler Prairie.

Motion was made by Robin Fortney to approve the seed harvest request from Bill Johnson. Seconded by Scott Moats. Motion carried unanimously.

Iowa State Prairie Preserve System Research Proposal

Approval from the Board is needed for Mary Damm's study on Plant Community Structure and Arbuscule Mycorrhizal Fungi Diversity in Native and Restored Tallgrass Prairies of Iowa.

Laura Jackson gave Mary Damm a high recommendation on the quality of her work.

Motion was made by Laura Jackson to approve the research proposal as presented. Seconded by Liz Christiansen. Motion carried unanimously.

Preserve Visits

Scott Moats visited:

Anderson Prairie – reed canary grass is an issue

Stinson Prairie – a majority of the preserve is dominated by sweet clover

Hoffmann – fairly good condition, though there is some brush is growing on the preserve

Laura Jackson visited:

Clay Prairie – talked with the Sheriff of Butler County and he expressed concern about the prairie not being burned. It's UNI's responsibility but Daryl Smith has gotten too busy to burn. She gave him permission, with her authority from UNI Biological Preserves System to go ahead and burn according to the board's requirement of only burning a portion at a time. He has all the proper equipment and assistance to help.

Sand Prairie – looks normal

Robin Fortney visited:

Malanaphy Springs – The hiking path was very nice and the flowers were beautiful.

Brush Creek Canyon – good shape, not used a lot. There is a beautiful stream with coral fossils.

Little Maquoketa River Mounds – needs some work. There was a fallen tree that had crushed the fence creating easy access.

Little Sioux River – participated in the Project AWARE river clean up and visited Cayler Prairie and Freda Haffner Kettlehole, both with interesting glacier remnant geology and in pretty good shape

Freda – Haffner – neat glacier remnant geology

Liz Christiansen informed the members that a woman was seriously injured when she fell down a cliff at Turkey River Mounds. An investigation is being conducted.

Neil Bernstein visited:

Freda Haffner, Cayler and Sliver Lake – nothing to report

Fleming Woods State Preserve – It's a nice, small woodland, low usage

Pilot Grove State Preserve – good historical area, low usage

Cindy Peterson visited:

Cameron Woods, Palisades, Pilot Knob, Hayden Prairie, Montauk,

Hanging Bog, Palisades-Dows, Williams Prairie – nothing to report

Crossman Prairie – in the process of fixing the damage

Lamson Woods – did not see any preserve boundary signs

Searryl's Cave – a lot of parsnip

Behrens Ponds – Toni Aguilar, TNC preserve manager took care of the old traps that were there

TELECONFERENCE MEETING ON JUNE 16, 2005

Neil Bernstein went over the minutes (italicized below) from the meeting on June 16th which outlined the board's role. David Dorff from the Attorney General's office was present to answer questions from the board or public.

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| <i>Motion was made by Liz Christiansen to approve the minutes from the June 16th teleconference meeting. Seconded by Armando Rosales.</i> |
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1. Should the Board evaluate how a proposed preserve would fit into the physical and social landscape?

Mike Smith said that an administrative body has the statutory authority expressly delegated by the legislature in its enabling legislation and the authority that is necessarily implied in order to carry out the powers and duties that are expressly delegated. In evaluating whether to approve dedication of specific land as a State preserve, the Board necessarily has implied authority to consider alternatives to dedication, alternative preserve boundaries, and alternative dedication provisions. Considering such alternatives are part of the process of exercising reasonable judgment about what land should be dedicated and what provisions should be included in articles of dedication. You need to know what the conflicts are and what the anticipated conflicts could be. What's in the public interest when dealing with the conflict issues.

2. Can the Board negotiate with the landowner(s) concerning location of preserve boundaries and contents of articles of dedication?

Mike Smith said yes. See answer to #1, above. If a landowner proposes something that the board sees as a potential problem for one or more reasons. If there's a way to resolve the problem by modifying the boundaries or modifying the provision for dedication, that is within the power of the board. You are not obligated to what they proposed, if they are not satisfied then there wouldn't be a dedication.

3. What is the meaning of "permanent injunction?"

Mike Smith said that an injunction may compel or prohibit specific conduct. Commonly, a permanent injunction would be in effect until the person or body being enjoined complied with the requirements by doing what was compelled or remedied a condition that caused a prohibitory injunction to issue. In contrast, "temporary" restraining orders and "preliminary" injunctions are court orders issued to compel or prohibit specific conduct during the litigation before the court has made any decision about whether to grant a "permanent" injunction.

4. Can the Preserves Advisory Board be sued?

Mike Smith said yes, probably for refusing to approve dedication of land as a State preserve; or breaking the open meetings law or possibly for approving dedication of land as a State preserve (although a defense would be that approval is only a recommendation to the Governor). Except in unusual circumstances, the Board would be defended by the Attorney General's office.

5. If the Preserves Advisory Board recommends approval of preserve status for land that is not in the custody of the DNR, is approval required from the Natural Resource Commission?

Mike Smith said no. NRC's only express function in relation to preserve dedication is approval of DNR acquisition of land that is to be dedicated as a State preserve. See Iowa Code § 465C.8(4). The NRC may have a role in approving dedication of land that is in the custody of the DNR. See § 465C.8(3) (Board's power to recommend dedication of state-owned areas under jurisdiction of the department) and § 455A.6(c) (NRC authority to approve acquisition or disposal of state lands relating to conservation programs).

6. What action should the board take regarding the public comments received on certain proposals?

John Pearson summarized what the board has previously done with public comments. 1) We solicit for public comment by posting the information on the website and sending out press releases. 2) Make hard copies of each comment and distribute to the board members for their review. 3) At the next meeting, the board members summarize their own comments, which become a part of the minutes.

Mike Smith said that the process is fine. There is no formal requirement for what to do with the comments, since you are not required to solicit for them. But since you ask for public comment, be sure that you acknowledge them. You are not bound to a majority comment outcome.

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| <i>Motion carried unanimously.</i> |
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EUREKA WOODS (BANISTER-MCGREGOR WOODS)

After extensive discussion at the April 1 meeting, the Board tabled the decision regarding dedication until the July meeting. Since, then several events have occurred: 1) three new Board members who had not seen the proposed preserve during the original 2002 tour visited the property 2) three Board members attended an April 12 public meeting in Jefferson that addressed the selection of alternatives for County Road E53 3) the preserve proposal has been modified by landowner Bill McGregor to drop Parcels B and C, leaving only the 90 acre Parcel A and 4) the Greene County Engineer has expressed interest in designating the Eureka Bridge and associated roadway as historical state preserve.

Neil Bernstein mentioned that the board received a letter from Chuck Offenburger in support of the preserve proposal. A story and overview of his comments can be found at www.Offenburger.com

Robin Fortney, Liz Christiansen, John Pearson and Neil Bernstein attended the public hearing in Greene County that was held on April 12th. Five alternatives were looked at for building a route (the old Lincoln Highway).

The five proposals were:

South Bridge – would go through the preserve at a direct diagonal

South Route - goes well south of Eureka bridge

North Bridge – would go to the north of the existing Eureka bridge and came back south to join the alignment.

Shadow Route – goes on the south side of the existing Eureka bridge and goes through the north end of the proposed preserve

No Build – improvements of the existing roadway

Neil Bernstein said that land parcels B & C have been removed from the existing proposal after the April 12th meeting, which would leave only parcel A for preserve status.

Motion was made by Robin Fortney to accept the core area (parcel A) into the preserve system. Seconded by Laura Jackson.

Laura Jackson said that she was pleased to see the removal of parcels B & C.

Neil Bernstein agreed. Neil did mention that the McGregors have attended almost every preserve board meeting for the last 2-3 years along with Bruce Banister. They have spent a lot of their time and money on the surveys, management plan, etc. The core parcel is very good quality woodland and has great potential for bird species. I support designating this land as a preserve.

Laura Jackson agreed with Neil's comments.

PUBLIC PARTICIPATION FOR EUREKA WOODS

Pam McKay Taylor, representing the Iowa Sierra Club said that she has known the McGregors for a few years. They have been very cooperative with the board's request. The Sierra club highly encourages the board to approve this area into the preserve system.

Wade Weiss, Greene County Engineer said that Greene County has not chosen a preferred alternative yet, the Shadow Route was preferred by consultant Schuck-Briston. There is a lot to consider when determining a preferred route such the studies done on the woodland areas, diagonal severance laws, and relocation. The two routes that have been designated as preferred alternatives by the consultant will go before the County Board of Supervisors. The routes being presented are the Shadow Route and the No Build Route.

Bruce Banister said that there are other alternative routes that would not need to go through the core area. Also, the injunction has stood for 14 years and to this day it has not been challenged.

Wade Weiss, Greene County Engineer said that Greene County has tried to remain unbiased on this issue. We have tried to work to generate a compromise.

Bill McGregor said that the laws on which this injunction was made are still in force.

Neil Bernstein said that the injunction that was put in place years ago is not something that relevant to the board's action today.

Bruce Banister said that the initial problem with the proposed preserve was that it was split into three separate land parcels, so we agreed to the removal of parcels B & C. Adopting some of the construction alternatives would split up parcel A, which in turn would bring us back to where we didn't want to be.

Bill Raney, Greene County Board of Supervisors said that both the Eureka and Jackson bridge are posted with weight restrictions. Something needs to be done. No action is not an alternative.

Robin Fortney said that she sees no reason to stop parcel A from being a preserve.

Motion was made by Liz Christiansen to amend the northern boundary of Parcel A to drop South about 1,000 to 1,200 feet. Seconded by Laura Jackson.

Armando Rosales said that he does not want to see a road within a thousand feet of the preserve.

Liz Christiansen said that the amendment is not intended to be an endorsement of any route alternative, but that the higher quality woodland area in the southern area of parcel A would be captured and would also allow for local public decision making.

Bill Raney, Greene County Board of Supervisors, said that we do not like to create environmental damage. We have good relations with the DNR and the County Conservation Board. We are concerned for people's safety.

Neil Bernstein said that even though the amendment has good intentions it would increase the biological impact.

Dwayne Larson said that the South Route is prohibitive because of the costs involved. The Jackson Bridge is owned by the city, not the county.

Bill Raney said that Liz's amendment would provide for a protected area of quality woodland yet it will allow the county to address the safety needs. I think this is a win-win.

Bruce Banister said that this would be unacceptable to him as a landowner.

Neil Bernstein called for a vote to the amendment made by Liz Christiansen.

Liz Christiansen – aye
Neil Bernstein – nay
Robin Fortney – nay
Scott Moats – nay
Cindy Peterson – nay
Laura Jackson – nay
Armando Rosales – nay

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| <i>Motion to amend the northern boundaries of parcel A failed.</i> |
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Neil Bernstein called for a vote to approve Eureka Woods as a part of the state preserves system.

Liz Christiansen – nay
Neil Bernstein – aye
Robin Fortney – aye
Scott Moats – aye
Cindy Peterson – aye
Laura Jackson – aye
Armando Rosales – aye

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| <i>Motion carried.</i> |
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ROCK ISLAND PRESERVE ADDITION

The Linn County Conservation Board has updated the nomination and management plan for the proposed 100 acre addition to Rock Island State Preserve. The completion of a vascular plant inventory of the proposed addition and the Blanding's turtle study conducted by the Iowa Department of Transportation necessitated the update. The Conservation Board requests that the Preserves Advisory Board take action on the proposal.

Tom Madsen's plant survey has been incorporated into the management plan.

The county has proposed the addition of parcels to the Rock Island Preserve. If we should approve the management plan today, it would normally set up a three

month public comment period and we would go to the October meeting to decide preserve status for the three additions.

Motion was made by Laura Jackson to approve the management plan. Seconded by Robin Fortney.

Neil Bernstein said that the plant studies have added a lot of background information.

Neil Bernstein said that the Linn County Conservation Board's resolution will affect the current management plan and the boundaries of the future preserve. The management plan would have to be updated.

Scott Moats said that when we establish a timeline for burning, it limits when updated research becomes available. Then in the future you would be in violation of your management plan.

PUBLIC PARTICIPATION FOR ROCK ISLAND

DAN BIECHLER, Director of the Linn County Conservation Board said that the current management plan could be changed at anytime and as the conditions warrant we could come back and change it. As far as burning, we would like some flexibility. The resolution was done to allow for the process of the highway project and the preserve to continue, but it also outlines six conditions that need to be met by DOT and others.

LYNN MILLARD, from Linn County Conservation Board said that the resolution was primarily to allow people involved in the highway construction to continue the use of federal funding. I don't believe this will affect the management plan since the land needs to be managed properly with or without the highway. We would request that the board consider preserve status in October, given the resolution. We will attempt to address the concerns of the resolution.

John Pearson said that the management plan addresses the 100 acre addition in three parcels. The management of these acres are fine. I believe there are about 11 acres that would be affected by the resolution, which would reduce the size of the proposed preserve from 100 acres to 89 acres. To clarify, we are asking approval for 100 acres of management not 100 acres of dedication.

Lynn Millard said that we are not asking to have the dedication area reduced in size because there are no approved plans to build a road.

Dan Biechler said that they anticipate at least 11 acres during the land trade if not more.

Daryl Howell said that we need specific boundaries of the proposed preserve in order for the public's comments be effective.

The Board agreed on the management practices that have been outlined in the plan.

Robin Fortney said that she would not vote to dedicate this land until the final boundaries are set.

RAY DOCHTERMAN from the Linn County Conservation Board said that he did sign the resolution but respectfully stated that he is not in favor of the Preserve Board acting upon dedication in October because he thought there would be time to meet the six conditions. We are working diligently to come to a compromise.

Neil Bernstein said the resolution complicates things by not outlining clear boundaries. I don't believe we should make a decision to preserve this and then have to go back to make alterations.

DAVE ELGIN presented a letter from Paul Pate the Mayor of Cedar Rapids listing a number of mitigating factors: There is litigation pending regarding this property, which may have a bearing on whether this land can even be considered for a state preserve. As of today, there is no approved funding by the Linn County Board of Supervisors for the management plan. If there is not a negative consequence to waiting, the City is requesting that you delay your decision until an appropriate plan serves both the public interest for an expanded Rock Island Preserve and the transportation needs of the region.

Neil Bernstein said that it's pertinent that we approve the management plan today but this plan will not alter what the city is requesting.

LINDA LANGSTON, Linn County Board of Supervisors said that she sees no problem with the management plan. My only concern is that the local process is given room to play out. My hope is to keep local discussions going in order to get the best interests of all involved.

PAM MACKEY TAYLOR, with the Iowa Sierra Club said that they support the approval of the management plan, which would protect species and plants. We encourage adoption of the management plan so the Conservation Board and staff can continue to preserve the land.

LYNN MILLARD, Linn County Conservation Board said that they have done the alterations as directed by the Preserves Boards. We respectfully ask that you approve the plan.

Neil Bernstein called for a vote to approve the management plan for Rock Island.

Liz Christiansen – nay
Neil Bernstein – aye
Robin Fortney – aye
Scott Moats – aye
Cindy Peterson – aye
Laura Jackson – aye
Armando Rosales – aye

Motion carried.

Motion was made by Laura Jackson to consider soliciting public comment and wait for a decision until the next board meeting, once we have more information. Seconded by Liz Christiansen.

Motion was made by Scott Moats to amend Laura Jackson's motion to hold a decision until all issues have played out, rather than making a decision at the next meeting. Seconded by Liz Christiansen.

Motion carried.

OPEN DISCUSSION

Friends of Mines of Spain and the Department of Natural Resources are planning the Mines of Spain fall seminar on September 10, 2005.

NEXT MEETING

October 10th, 2005 – Dixon – Cameron Woods in Clinton County

ADJOURNMENT

Motion was made by Robin Fortney to adjourn the meeting. Seconded by Scott Moats. Motion carried unanimously.

With no further business to come before the State Preserves Advisory Board, Chairperson Neil Bernstein adjourned the meeting at 1:10 PM on July 8, 2005.

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